C.S. 100

SINGLE BENCH

P.R. No. 5092/05
Presented by Vaibhav Agrawal
dated 28/9/05

IN THE HIGH COURT OF JUDICATURE AT CHHATTISGARH BILASPUR

W.P. No.: 5033 / 2005

PETITIONER :

NATIONAL ENGLISH SCHOOL,
Jagdalpur, Distt.: Bastar(Chhattisgarh)
A Non-Government and Un-aided Private School,
Run by **BASTAR EDUCATION SOCIETY,**
A Society registered under the Societies Registration Act, 1860,
Bearing registration no. 43/ 1961-62. Through the Vice Chairman, Managing Committee, National English School, Jagdalpur, Distt. Bastar (C.G.)

Versus

RESPONDENTS :

(1) **Assistant Provident Fund Commissioner & Sub-Regional Officer,**
Employees Provident Fund Organization, Raipur (C.G)

(2) **Regional Provident Fund Commissioner,**
Regional Officer : Employees Provident Fund Organization, Raipur (C.G)

(3) **UNION OF INDIA,**
Through the School Provident Fund Commissioner,
New Delhi

(4) **STATE OF CHHATTISGARH,**
Through the Principal Secretary,
Ministry of School Education,
Govt. of Chhattisgarh, Raipur (C.G)

(5) **The Union Bank of India**
Branch – Jagdalpur,
Through the Branch Manager

R/C
B. Mahant
to
Miss. Sharmila Singhai
(Adv.)
29/9/05

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29.9.05
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NOTARY
V. S. Agrawal
Regd. No. C.G. 01/...
Lic. No. C.G. 01/...

PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA.

The Petitioner most respectfully submits as under :→

1. **PARTICULARS OF THE PETITIONER :-**

That, the Petitioner is a English Medium Higher Secondary School, run by the Bastar Education Society, registered under the Societies Registration Act, 1862.

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(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

24.10.2005

W.P.No.5033/2005

Shri Manoj Paranjape, counsel for the petitioner.

Heard on admission.

This writ petition has been filed for quashing the notice dated 13.5.2005 (Annexure P-1) said to have been issued under Second Schedule to the Income Tax Act, 1961 read with Section 8-B to 8-G of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. It has also been filed for quashing another notice dated 5.9.2005(Annexure P-2) issued by the Recovery Officer, Regional Office, Raipur.

Learned counsel for the petitioner submits that on 10.9.2004 some orders for depositing the amount of Provident Fund was passed by the Regional Provident Fund Commissioner, Raipur, in compliance of which the amount was to be deposited. He further submits that since the petitioner was not satisfied with the determination of the amount in question directed to be deposited; it filed a petition for review of the original order on 7.10.2004, a copy of which has been filed as Annexure P-12. He also submits that the remedy of review is a statutory remedy provided under Section 7-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. He refers to the provision and submits that when a petition for review has been

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

filed before the competent authority, the authority was under obligation to dispose of the same. However, according to learned counsel for the petitioner, the authority has not taken any action on the petition filed for review of the original order and in the meanwhile, in the process of execution, aforesaid two notices have been issued to the petitioner. It is in this situation, he is praying for quashment of the aforesaid two notices.

In the facts and circumstances of the case, when the review itself against the original order is pending before the competent authority, I am not inclined to interfere with the notices of execution when neither the validity of the notice nor the process in execution is under challenge nor the jurisdiction of the authority issuing the notices has been challenged.

At this stage, learned counsel for the petitioner submits that if the review is disposed of by the concerned authority and the original order is set aside, then everything would come to an end. He further submits that if the petitioner shall be held responsible for making payment, it is bound to make payment and if in the review it succeeds and the original order is set aside, then there would be no impediment on the petitioner.

Learned counsel for the petitioner prays for some observation for early disposal of review application.

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मामला क्रमांक WP 5033 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the facts and circumstances of the case, without interfering in the process of recovery for which notices (Annexures P-1 and P-2) are issued, I can only say that it is expected that the review filed by the petitioner shall be disposed of by the concerned authority at the earliest date in accordance with law so that, the matter may come to an end. With the aforesaid observations, the petition stands disposed of. In view of this order, M.W.P.No.4064/2005 and I.A.No.8832/2005 for urgent hearing stands disposed of. **Sd/-** **Sunil Kumar Sinha** **Judge**	